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6

7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 THE LINCOLN NATIONAL LIFE
10 INSURANCE COMPANY,

11 Plaintiff,

12 v.

13 LINDA E. PATTERSON, J. JEFFRY
DILL, MICHAEL GLEN PATTERSON, JOHN
DOES and JANE DOES,

14 Defendants.
15

CASE NO.: 2:15-cv-00892

**JOINT MOTION OF THE PARTIES
TO SET ASIDE ORDER OF
DISMISSAL**

16 The parties in the above litigation, by and through their respective attorneys, hereby
17 respectfully submit this Joint Motion of the Parties to Set Aside this Court's Order of Dismissal on
18 grounds that Plaintiff/Stakeholder The Lincoln National Life Insurance Company ("Lincoln")
19 inadvertently filed the wrong Stipulation of Dismissal in the above matter.

20 In further support of this Joint motion, the parties state that this matter arises from the death
21 of John C. Patterson (the "Insured" or "Decedent") on July 16, 2012, and the competing claims that
22 have been asserted as to the proceeds of his life insurance policy. The Decedent was originally
23 insured under a life insurance Policy Number 000974241 issued by the United Life and Accident
24 Insurance Company, predecessor in interest to Lincoln, in October, 1985, with a face amount of
25 \$30,000.00 ("the Policy Proceeds"). Defendants/Claimants, Linda E. Patterson, J. Jeffry Dill, and
26 Michael Glen Patterson ("Defendants/Claimants") have submitted competing claims to Lincoln for
27 the Policy Proceeds. Lincoln is uncertain regarding the appropriate distribution of the Policy
28 Proceeds and has entered into a Release and Settlement Agreement with the Defendants/Claimants

1 for Lincoln to pay the Policy Proceeds, less Lincoln's attorney's fees, into an attorney IOLTA
 2 account on behalf of the Defendants/Claimants. The parties have agreed to release Lincoln from any
 3 and all claims related to the Policy Proceeds.

4 Pursuant to the Release and Settlement Agreement entered into by the parties, Lincoln filed a
 5 Stipulation of Dismissal with Prejudice on March 23, 2016. The Court then entered an Order that
 6 same day dismissing all pending claims and instructing the clerk to close the case. However, Lincoln
 7 filed the incorrect Stipulation and inadvertently dismissed the claims between and among all the
 8 parties, when the Stipulation was only supposed to release the Defendants/Claimant's claims against
 9 Lincoln. Therefore, the parties respectfully request an Order from the Court: 1) setting aside the
 10 order of dismissal entered by the Court on March 23, 2016; and 2) allowing the parties to re-file a
 11 corrected Stipulation of Dismissal with Prejudice dismissing only the Defendant's/Claimant's claims
 12 against Lincoln attached as Exhibit A.

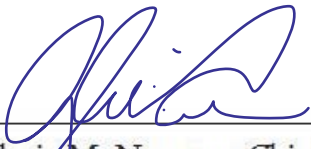
13 DATED this 5th day of April, 2016.

14 **WILSON, ELSER, MOSKOWITZ,**
 15 **EDELMAN & DICKER LLP**

16 BY /s/ Richard I. Dreitzer
 17 Richard I. Dreitzer
 18 Nevada Bar No. 6626
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 20 Las Vegas, NV 89101
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Attorneys for Plaintiff

21 Pursuant to the instant Joint Motion, the Court's Stipulated Dismissal Order, (ECF No. 20),
 22 is set aside. The parties in this case will have until April 19, 2016, to file an amended
 23 Stipulation of Dismissal in this case.

24
 25 **DATED: April 14, 2016**

26 
 27 Gloria M. Navarro, Chief Judge
 28 U.S. District Court for the District of Nevada

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of WILSON ELSEER MOSKOWITZ EDELMAN & DICKER, LLP and that on this 5th day of April, 2016, I did cause a true copy of the forgoing document to be electronically transmitted to the Clerk of Court using the ECF System for filing.

By /s/ Naomi E. Sudranski
An Employee of
WILSON, ELSEER, MOSKOWITZ, EDELMAN & DICKER LLP

EXHIBIT A

EXHIBIT A

1 Richard I. Dreitzer
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9 *The Lincoln National Life Insurance Company*

10
11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 THE LINCOLN NATIONAL LIFE
14 INSURANCE COMPANY,

15 Plaintiff,

16 v.

17 LINDA E. PATTERSON, J. JEFFRY
18 DILL, MICHAEL GLEN PATTERSON, JOHN
19 DOES and JANE DOES,

20 Defendants.

CASE NO.: 2:15-cv-00892

**STIPULATION OF DISMISSAL
WITH PREJUDICE AS TO
PLAINTIFF THE LINCOLN
NATIONAL LIFE INSURANCE
COMPANY ONLY**

21 Plaintiff/Stakeholder, THE LINCOLN NATIONAL LIFE INSURANCE COMPANY
22 (hereinafter "Lincoln"), and Defendants, LINDA E. PATTERSON, J. JEFFRY DILL, and
23 MICHAEL GLEN PATTERSON ("Defendants") hereby agree and stipulate, pursuant to Rule
24 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, that any and all claims of the Defendants
25

26 ///

27 ///

1 against Lincoln be dismissed with prejudice, and with each party bearing their own costs, attorneys'
2 fees and expenses.

3 Dated this 5th day of April, 2016

Dated this 5th day of April, 2016

4 **WILSON, ELSER, MOSKOWITZ,**
5 **EDELMAN & DICKER LLP**

CREED & GILES

6 /s/ Richard I. Dreitzer

/s/ Jerrold E. Creed

7 _____
Richard I. Dreitzer, Esq.
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10 Attorney for Plaintiff THE LINCOLN
NATIONAL LIFE INSURANCE COMPANY

Jerrold E. Creed, Esq.
Nevada Bar No. 11094
520 South 7th Street, Suite D
Las Vegas, NV 89101
Attorney for Defendant LINDA E.
PATTERSON

11
12 Dated this 5th day of April, 2016

13
14 **PHILLIPS BALLENGER**

15 /s/ Christopher J. Phillips

16 _____
Christopher J. Phillips, Esq.
17 Nevada Bar No. 8224
3605 S. Town Center Dr., Suite B
18 Las Vegas, NV 89135
Attorney for Defendants J. JEFFRY DILL and
19 MICHAEL GLEN PATTERSON

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of WILSON ELSEER MOSKOWITZ EDELMAN & DICKER, LLP and that on this ____ day of _____, 2016, I did cause a true copy of the forgoing document to be electronically transmitted to the Clerk of Court using the ECF System for filing.

By

An Employee of WILSON, ELSEER, MOSKOWITZ, EDELMAN & DICKER LLP